



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

June 8, 2004

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: Environmental Justice News for May 15 - May 28, 2004

FROM: Nicholas Targ, Counsel
Office of Environmental Justice, OECA, USEPA

Mustafa Ali, Environmental Protection Specialist
Office of Environmental Justice, OECA, USEPA

TO: Barry E. Hill, Director
Office of Environmental Justice, OECA, USEPA

This summarizes environmental justice news for May 15, 2004, through May 28, 2004. Except as noted, this review is confined to Lexis/Nexis queries conducted under the following search: “(environment! w/2 (justice or racism or equity or disproportionate or disparate)) or (environment! w/50 minorit! or low***income) or (executive order 12898) or (civil right! w/50 environmental)”. Please note that we have not included multiple articles covering the same topic.

For the period ending May 14, 2004, the following news is current:

A. News–

1. Noel C. Paul, “Boston debates dangers of scientific research in era of WMD,” Christian Science Monitor, Boston, Massachusetts (May 11, 2004).

The article reports that residents of high-density, minority and low-income areas of Boston’s South End and Roxbury have raised concerns about the planned construction of a medical laboratory in their vicinity. City officials and Boston University are in support of the lab, which according to the article will, “be used to study some of the most dangerous viruses in the world such as Anthrax, Ebola, and other plagues.”

2. Virginia Hennessey, “Private desalination plants worry environmentalists; Officials favor public agencies,” Monterey County Herald, Monterey, California (May 8, 2004).

Participants at a recent environmental justice conference considered the cumulative effects of discharges from a proposed desalination facility on local disadvantaged and minority communities, according to the article. Marc Del Piero, a former County Supervisor and State Water Resources Control Board member said, “once multinational companies are permitted the right to build desalination plants along the coast, then the state will lose the right to regulate them.” Susan Jordan of the Coastal Protection Network, who is also a Santa Barbara County Planning Commissioner said, “water created through desalination should be used to create affordable housing and to address the disproportionate effects of water problems on disadvantaged communities.”

3. Carolyn Carlson, “Group Studies health Issues,” Albuquerque Journal, Albuquerque, New Mexico (May 7, 2004).

The article reports that, “the South Valley Partners for Environmental Justice has received a minority grant for \$69,809 from the national Institute of Environmental Health Science.” The grant funds a study to evaluate and address environmental health threats in the City of Albuquerque’s predominantly low-income and Hispanic population.

4. “Second public speaker series set for city plan; Century Center speeches free and open to public,” South Bend Tribune, South Bend, Indiana (May 7, 2004).

On June 1st, Majora Carter will give a presentation entitled, “Community Building that is Formed by the Needs of the Community and Values of Environmental Justice.” This presentation is part of the City of South Bend’s overall long range development plan, according to the article.

5. Vivi Abrams, “Panel: Ecology, Civil Rights Are Linked,” Birmingham News, Birmingham, Alabama (May 1, 2004).

A panel discussion at the Birmingham Civil Rights Institute featured the Reverend Fred Shuttlesworth and the Reverend Matthew Fox. The discussion focused on the intersection between faith, civil rights and environmental justice. “There is racism and classism involved in ecological destruction. Hazardous waste sites and industrial facilities with toxic chemicals and pollution tend to be located near poor minority communities in Alabama and elsewhere,” Fox is reported as saying.

B. Legislative/Regulatory/Programmatic–

1. EPA, Environmental Impact Statements and Regulations; “ERP No. D-FHW-D40323-PA Rating EC2, U.S. 202, Section ES1 Improvements Project, To Relieve Traffic Congestion and Improve the Corridor, Funding and U.S. Army COE Section 404 Permit, Delaware and Chester Counties, PA.,” 69 Fed. Reg. 29306 (May 21, 2004).

Pursuant to §309 of the Clean Air Act, the U.S. EPA found that the NEPA analysis accompanying an Army Corps of Engineers permit to dredge or fill a wetland raised environmental concerns and lacked complete information (an EC2 rating). Specifically, the summary of findings provides, “EPA has environmental concerns with the proposed project regarding potential impacts to surface water, forested habitat, historic structures, and

Environmental Justice areas. EPA recommends utilizing the existing loop road into the final design to further avoid and minimize impacts to aquatic resources.”

2. Department of Transportation, Notice of Intent, “Programmatic Environmental Impact Statement: High Speed Rail Corridor Las Vegas, NV to Anaheim, CA,” 69 Fed. Reg. 29161 (May 20, 2004).

The Federal Railroad Administration provides notice that it will prepare a programmatic Environmental Impact Statement for a proposed high speed (magnetic levitation) train, which would connect Las Vegas with Los Angeles. The notice provides that earlier environmental assessments identified, “[p]ossible environmental impacts includ[ing] displacement of commercial and residential properties, disproportionate impacts to minority and low-income populations, community and neighborhood disruption, increased noise and electromagnetic interference along rail corridors...” Persons wishing to provide comments on the scope of analysis may contact Mr. Christopher Bonanti, Environmental Program Manager, Office of Railroad Development, Federal Railroad Administration, 1120 Vermont Avenue (Mail Stop 20), Washington, DC 20590; Telephone (202) 493-6383; e-mail: christopher.bonanti@fra.dot.gov.

C. Litigation–

1. *Walker v. U.S. Department of Housing and Urban Development*, Civil Action 3:85:-CV-1210-R, 2004 U.S. Dist. LEXIS 8792 (N.D TX May 18, 2004).

Evaluating whether the Dallas Housing Authority’s (DHA) sited a public housing complex in a manner that violated the Equal Protection Clause, the court found the siting decision: (1) “will not produce disproportionate effects along racial lines, and DHA did not act with a racially discriminatory intent or purpose...”; (2) “Even if constructing public housing on the Hillcrest Site was found to have a present racially disproportionate effect, race is not a substantial or motivating factor...”; (3) “Even if... racial discrimination was a substantial motivating factor. . . . there is no better place in Dallas on which to build a 40-unit apartment complex.”

2. *Ventura Village, Inc. v. City of Minneapolis*, Civil No. 02-3469 (DSD/SRN) 2004 U.S. Dist. LEXIS 8857 (D. Minn. May 18, 2004).

Ventura Village, Inc., a citizen’s group in a predominantly African America community in Minneapolis, alleged that the City of Minneapolis discriminated against area residents by granting a variance to construct a “supportive housing” from compliance with an ordinance that restrict such facilities from being built within one-quarter mile of each other. The subject facility would be proximate to nine such facilities. On summary judgement, the court held that the plaintiffs cannot show disparate impact because “plaintiffs challenge a single act undertaken by the City. . . . Thus,... the court cannot compare the impact of [the siting decision] on different groups of people.” With respect to the Equal Protection claim, the court found that plaintiffs brought “forth no historical evidence of discrimination in the City’s application of the spacing requirement,” “evidence of any meaningful procedural irregularities,” or “evidence of discrimination in the legislative and administrative history...”